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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,340	08/28/2003	Thomas L. Drabensstott	800.0130	6843

27997 7590 08/22/2005

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DURHAM, NC 27713-7736

EXAMINER
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PAN, DANIEL H

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,340

Applicant(s)

DRABENSTOTT ET AL.

Examiner

Daniel Pan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-40, 53 and 56-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-40, 53 and 56-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 34-40,53,56-61 , 62-66 are presented for examination. Claims 1-33, 41-52,54,55 have been canceled. A terminal disclaimer has not been received.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 34, 53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 9 of U.S. Patent No. 6,366,999. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons :

3. Claims 34,53 are generic to the species of invention covered by claims 1 , 9 of the patent. Thus, the generic invention is "anticipated" by the species of the patented invention. Cf., *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (holding that an earlier species disclosure in the prior art defeats any generic

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claim) . This courts predecessor has held that, without a terminal disclaimer, the species claims preclude issuance of the generic application. In re Van Ornum, 686 F.2d 937, 944, 214 USPQ 761 , 767 (CCPA 1982); Schneller , 397 F.2d at 354. Accordingly, absent a terminal disclaimer, claims 1 , 53 are properly rejected under the doctrine of obviousness-type double patenting (see In re Goodman (CA FC) 29 USPQ2d 2010).

4. Claims 34-40, 53, 56-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dibrino et al. (6,061,707) in view of Pawate et al. (5,528,550).
5. No change has been made .
6. Claims 62 , 64, 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Dibrino et al. (6,061 ,707) .
7. No change has been made.
13. Claim 63 ,66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dibrino et al. (6,061,707) in view of Pawate et al. (5,528,550).
8. No change has been made.
9. The rejections are maintained and incorporated by reference the last Office action on 04/13/05.
10. The response filed on 06/17/05 by applicant has been fully considered but is not persuasive.
11. In the remarks, applicant argued that Dibrino did not teach :
  - a) providing instruction control lines including conditional execution control lines to control conditional operation as specified in an instruction;

b) the end around carry bit did not constitute a flag settable by an instruction;  
c) Pawate did not disclosed the ACF latch for storing previous state and feeding previous state back to the ACF generation unit.

12. As to a) above, Dibrino disclosed instruction control lines including conditional execution control lines to control conditional operation as specified in an instruction (see the operand portions s 11 and 12 in fig.2)',

13. As to b), Dibrino disclosed an arithmetic condition flag generation unit (27) for providing a Boolean combination (end-around carry) of a present state (see carry input to AND 27) with a previous state (see the shift count output to AND 27). From the above teaching it is clear that the end-around carry had a present state and a previous state. Therefore, the end-around carry was settable between two states.

14. As to c) above, applicant did not explain why he thought that Pawate did not disclosed ACF latch for storing previous state and feeding previous state back to the ACF generation unit. However, the examiner would like to point out that Pawate disclosed ACF latch [accumulator] for storing previous state and feeding previous state back to the ACF generation unit (see the direct feedback path from the accumulator in fig.3). The type of the ACF generation unit is not being reflected into the claim, therefore, any register or accumulator which reflect the processing status could be read on the claim. Pawate did include an accumulator with feedback to effect the processing

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status of the arithmetic operation (see also the latch for storing the data in col.6, lines 16-34).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

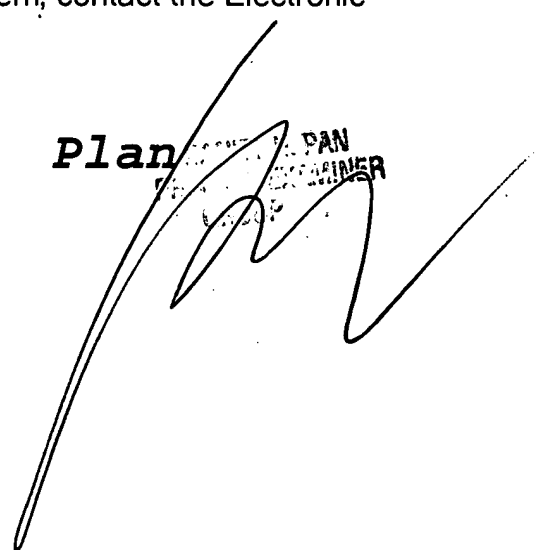
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pan whose telephone number is 703 305 9696, or the new number 571 272 4172. The examiner can normally be reached on M-F from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chan, can be reached on 703 305 9712, or the new number 571 272 4162. The fax phone number for the organization where this application or proceeding is assigned is 703 306 5404.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**21 Century Strategic Plan**

A handwritten signature in black ink is written over a rectangular stamp. The stamp contains the text "PAN" and "OWNER" in a bold, sans-serif font. The signature is a stylized, cursive-like mark that extends from the top right of the stamp and curves downwards and to the left.